

REMARKS

FORMAL MATTERS:

Claims 1-5 are pending after entry of the amendments set forth herein.

Claims 6-30 are canceled without prejudice.

Claims 1, 4 and 5 are amended. Support for these amendments is found in original claims 1-5.

No new matter is added.

RESTRICTION REQUIREMENT

The Restriction Requirement has been made final. Applicants have canceled the non-elected claims 6-30 and reserve the right to file a divisional application directed to these claims or any invention disclosed and described in the application.

SPECIFICATION OBJECTIONS

The specification was objected to as not containing full and complete citations of the references cited. The specification has been amended to include full citations thereby overcoming the objection.

35 U.S.C. §101 REJECTION

Claims 1-5 were rejected under 35 U.S.C. §101 as directed to non-statutory subject matter.

The objection appeared to have been correct. However, the claims have been amended to overcome this rejection and indicate that the nucleotide sequence is “isolated.”

REJECTIONS UNDER §112, ¶2

Claims 1-5 were rejected under 35 U.S.C. §112, second paragraph. The rejection is traversed as applied and as it might be applied to the presently pending claims.

The objection appears to have related to the claimed subject matter not reciting conditions under which hybridization will occur. Claim 1 has been amended to include conditions for hybridizing. Accordingly, the rejection is believed to have been overcome.

REJECTIONS UNDER §102

Claims 1-5 were rejected under 35 U.S.C. §102 as anticipated by Bang et al. The rejection is traversed as applied and as it might be applied to the presently pending claims.

The rejection appears to have been based on the expectation that applicants' claimed sequence would be within the microorganisms disclosed within the cited art. The claims have now been amended to indicate that the claimed sequence is a "isolated" sequence and as such the rejection is believed to have been overcome in that the cited reference does not disclose the claimed isolated sequence.

CONCLUSION

Applicants very much appreciate the Examiner's helpful comments and proposed claims. The amended claims are believed to substantially reflect the claims proposed by the Examiner.

The non-elected claims have been canceled. The specification has been amended to include full citations. The 35 U.S.C. §101 and §102 rejections have been overcome by claim amendments.

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number SHIM-018.

Respectfully submitted,
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